House Joint Memorial 17 Task Force Recommendations

November 2011

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House Joint Memorial 17

The challenge for this task force is to develop humane and effective strategies to reduce the number of people with mental health disorders who require law enforcement intervention or who are in detention facilities.

Representative
Rick Miera

Guiding Principles
Peer led and peer driven services are critical to any effective and humane statewide mental health system.
Services should employ the least restrictive environment and maximize client[1] choice.
A crisis system must serve both individuals with mental illness who have insight into their condition and those who do not.
Mental health services must be trauma informed, gender specific, age appropriate, culturally sensitive, language appropriate, and accessible to anyone regardless of literacy level.
These recommendations are for services that would be available to all persons with serious mental illness, their families, and their natural supports regardless of age, socio-economic, or insured status.

Two-thirds of boys and three-quarters of girls in the juvenile system meet the diagnostic criteria for mental illness and/or substance use disorders. The majority are victims or witnesses to traumatic events and respond to threats self-protectively, sometimes with violence.

Jeffrey Tinstman
Senior Behavioral Health Administrator
NM Children, Youth, & Families Department

[1] In order to accord respect and dignity to individuals living with a diagnosable mental illness, the HJM Task Force has elected to refer to these individuals as "clients" for the purpose of this document.

Recommendations	Page
System Improvements Develop flexible funding streams and payment mechanisms to compensate providers for the critical services described in these recommendations.	5
Regional Crisis Triage Centers Fund regional crisis triage sites to conduct mental health evaluations and provide up to 23 hours of diversion.	6
Respite Services Develop and fund respite care locations throughout the state to serve as a non-clinical alternative to reduce need for hospitalization or incarceration.	8
Training Establish peer training programs and training for family members, natural supports, teachers, students, and first responders.	9
Call Centers Establish a centralized, statewide call center with a single telephone number that is connected to local authorities and behavioral health agencies throughout the state.	11
Warm Lines Expand warm line services statewide that are client-run or client-staffed to provide telephone-based peer support.	12
Community Crisis System Planning Develop broad community coalitions in all communities or counties of the state to enhance and integrate local capacity to respond to mental health crises.	12
Peer Services Use peer services whenever possible to provide and enhance services.	14
Criminal Laws Review criminal statutes to determine whether there are sensible changes that can be made which would reduce costly and often unnecessary, lengthy, and ineffective incarceration of individuals with mental illness.	15

An important aspect of this recommendation is the development of a comprehensive crisis system that can serve all people, regardless of insurance coverage or ability to pay. With flexible funding streams more crisis service and crisis intervention can occur, reducing the escalation of mental health crisis into more serious and costly situations. State regulations and service definitions need to be reviewed to remove regulatory requirements that impede the flexibility to provide critical services in a cost effective manner.

The current fee-for-service structure does not fit the types of services we need for persons not already engaged with the existing treatment system. Fee-for-service has also been identified nationally as a significant cause of the high cost of health care in the United States. The New Mexico Behavioral Health Purchasing Collaborative is currently studying alternative mechanisms for future health care delivery such as case rates and performance contracting. The Medical Assistance Division (MAD) is exploring waivers that could serve as part of the solution. This recommendation is therefore consistent with ongoing efforts around the country related to future healthcare delivery.

2. Regional Crisis Triage Centers

Problem

Currently law enforcement officers in most areas of the state will take a person who is experiencing an acute mental health crisis to a detention facility because there is no alternative. Hospitals will not hold someone unless they are an imminent threat to themselves or others. In the absence of a safe place in the community for an individual in crisis to be evaluated and stabilized, jails and juvenile detention centers are used for protective custody. This further traumatizes the individual and is not the purpose of incarceration.

Recommendation

Develop and fund regional crisis triage sites where individuals can stay for up to 23 hours to receive immediate stabilization, mental health evaluations, and observation. Law enforcement officers and first responders could take appropriately screened individuals to these sites for assessment and disposition. Individual walk-ins and family referrals would also be accepted.

> *People are taken to jail because it is easier and quicker than taking them to the hospital. Jail is especially hard on the elderly.*
>
> Bette B. Betts, Behavioral Health Director
> Aging and Long-Term Services Department

Discussion

State law authorizes law enforcement officers to detain and transport a person for emergency mental health evaluation under a number of circumstances, which include: 1) the person is otherwise subject to lawful arrest; 2) the officer has reasonable grounds to believe the person has just attempted suicide; or 3) the officer believes (or a licensed physician or certified psychologist has certified) that due to their mental illness, the person is likely to harm themselves or others and detention is necessary to prevent the harm.

and operational standards for triage centers. Practical questions such as how an individual would get home from a regional center also need to be addressed. However, the existing Doña Ana County crisis triage plan is an excellent model upon which to build other regional sites and the HJM 17 task force recommends that the legislature fund the Doña Ana County's proposal.

3. Respite Services

Problem

The absence of sub-acute care to de-escalate potential crisis situations increases the frequency and number of mental health crises in our communities. Hospitals and jails are not appropriate for this lower level of care, but are often the place where individuals are taken by local authorities when they experience a severe crisis.

Recommendation

Develop and fund respite care locations throughout the state to serve as non-clinical alternatives that can reduce the need for hospitalization or incarceration.

Discussion

Respite services are non-clinical options for persons who need a safe place and perhaps short-term, "lower level" care or support to reduce the stressors and risk factors that might otherwise lead to a severe crisis. Respite services often utilize peers and natural supports to staff a safe place for someone to take respite and avoid crisis. Respites can be located in private residences, group home settings, and available community facilities. Successful respite programs have used creative and low-cost ways to provide respite, with a range of service tiers.[2]

People living with mental illness often end up in jails or emergency rooms because there is no place for them to obtain care **before** they are in crisis. This is especially true on weekends and evenings. Once they are admitted or detained, the setting is not always ideal. Clients report that institutional spaces (such as jails and hospitals) present a stressful environment that creates a barrier to healing. Stress increases the likelihood of crisis and can escalate and elongate the crisis period.

Poverty, hunger, isolation is what comes with a serious mental health diagnosis. No hopes, dreams, aspirations to stir you up, just pills and pills and more pills - that just isn't the stuff to inspire you to get out of bed! People dealing with mental illness and/or experiencing homelessness get good at hiding. We hide from the police even when we've done nothing wrong because we are scared of them.

Michael Hubert
Office of Consumer Affairs Consultant

An essential characteristic of respite is that it provides a trauma informed environment. It is

[2] Strong models for respite care programs include: Wild Acre Inns in Arlington, Massachusetts; statewide programs in New York; Peer Support and Wellness Center, a project of the Georgia Mental Health Consumer Network; and others can be found at http://www.power2u.org/peer-run-crisis-services.html.

Not all mental health workers are equipped to respond to crisis.

Troy Fernandez, Senior Director
Behavioral Health Services
Division OptumHealth

Opportunities for mental health and crisis education should be expanded to include the general population, including schools, community organizations, family members, peer supports and others whose lives are potentially touched by an issue or experience of mental illness. Education and training of natural supports and others is of particular value to New Mexico's rural and frontier communities, whose isolation leads to fewer mental health resources and trained personnel. Education and training should also be broadly inclusive of first responders, such as Emergency Medical Service technicians, emergency dispatch, fire department personnel, Tribal authorities, and others involved in first responder roles, as well as persons staffing social service agencies, respite centers, and detention facilities, and those assigned to be treatment guardians. Training of behavioral health and primary care (i.e., medical) providers in the recognition and assessment of mental illness in the older adult population who frequently present with multiple and complex mental and medical health problems is also a special need.

Family members, friends, mental health peers, and others are natural supports to people in the throes of a mental health crisis. Many people in communities throughout New Mexico serve in an informal capacity as critical supports to those in crisis, constituting a largely untapped resource to any crisis response system in the state. Trauma informed education and training in de-escalation techniques will increase the ability of people in a natural support role to adequately identify and address mental health crisis situations.

Schools are also a natural and untapped venue to bring needed information and training about mental illness, including mental hygiene. Programs on mental illness and mental hygiene can be integrated into the curricula of schools throughout the state, and should be included in the health education course required for high school graduation. Educational programs geared towards younger audiences should also be provided in grade schools throughout New Mexico.

Families are also victims of this disease and should not get lost in the discussion. Families represent those consumers who lack insight into their illness.

James W. Ogle
National Alliance on Mental Illness
Co-Chair Legislative Committee

Education of the public is a powerful way to dispel the myths and stigma surrounding mental illness, and the fear, sense of helplessness and shame that too often accompanies it. It can also provide important tools for clients who want to engage in advance planning and caregivers who want to work more effectively with their clients. Through education and training, urban and rural communities in New Mexico will be better equipped to address the needs of people experiencing a mental health crisis and to enhance the overall coordination of the network of services available to those in need.

It is also important to develop training programs to help individuals who work with people who lack insight into their illness and who therefore do not seek out help. This requires

behavioral health services. The statewide hotline would provide service where none currently exists while allowing communities with existing services to maintain their local numbers.

Although the details regarding such a statewide service will need to be developed by a dedicated work group, the task force recommends that responsibility for oversight of the call center be housed within a public agency that develops protocols, training requirements, and supervisory models to support call center staff, and that oversees call center operations and monitors response standards and quality protocols. It is critical that the call center have access to current and comprehensive information about local behavioral health services. Because the call center would focus on behavioral health, services would not be limited to responding to incoming calls but would also include making or arranging for follow-up calls for people who have had contact with either crisis or warm line services.

6. Warm Lines

Problem

Although warm lines have been proven effective at mitigating and even resolving crisis, warm lines are only available in limited areas of the state.

Recommendation

Expand warm line services statewide to reduce the likelihood of crises, help individuals to access appropriate resources, and support ongoing and long-term recovery.

Discussion

Warm lines are peer-run or peer-staffed. They provide confidential, telephone-based peer support and resource referral services. The goal of crisis and warm line service is to prevent crisis and use currently available resources effectively. A statewide warm line would use peers for response and support and could include a statewide network of peers to respond to calls through a centralized number (see Call Center Recommendation 5).

> *We fail when we are alone, isolated and scared. Sometimes we just need someone to call. More peer services will leave fewer people for law enforcement to deal with.*
>
> Douglas Fraser, Consultant

Local Collaboratives that have warm lines in their communities report that they are highly effective, but they are not widely or consistently available throughout the state. This is the case even though they are an economical and effective resource to prevent crisis and improve client quality of life. Investing in training for peer counselors (see Training Recommendation 4) and coordinating warm line access through a statewide call center (see Call Center Recommendation 5) would be a cost effective strategy for providing this critical service to people living with mental illness across the state.

communities. Despite the fiscal and personnel constraints faced by many communities, communities are best positioned to develop broad community-based coalitions to enhance and integrate local capacity to respond to those experiencing a mental health crisis. Smaller communities are often most effective at providing sensible care because they know who people are and take care of them. Regardless of the size of a community, direct communication among stakeholders can generate practical solutions and make possible a coordinated response to those individuals with serious mental illness who require the most intensive support.

Communities are an integral part of people's lives. For people experiencing a mental health crisis, receiving services in their communities can offer a critical sense of continuity in a situation of high uncertainly – a much needed connection to people and to place. Communities by their very nature thus serve as a critical natural support for a person in crisis and his or her journey towards healing.

Local stakeholders are best situated to identify and marshal supports and linkages among service providers because they can identify their community's unique strengths and challenges. Through such powerful linkages a range of community-based, cost-effective responses can be developed, including, but not limited to, establishing warm lines, respite centers, community and peer-based training programs, a crisis hotline, and, if affordable, mobile crisis teams.

Everyone is an important member of the community—even if they have a disability. What is being done to stabilize them in the community?

Rick Vigil
Local Collaborative 18 Chair
Former Tesuque Pueblo Governor

8. Peer Services

Problem

Access to peer support and peer run programs for clients in crisis is minimal or nonexistent in most areas of New Mexico.

Recommendation

Use peer support and client run services whenever possible to provide and enhance provider-oriented services, such as use of certified peer specialists to support individuals in the Emergency Room and use of trained peers for respite and crisis triage. Use client run services such as Community Wellness Resource Centers, drop-in centers and warm lines to provide mutual support one to one or in groups.

What I see lacking in this state is peer-to-peer interaction in the crisis area.

Comment by
Local Collaborative 2

Discussion

Clients report that having access to other individuals who have shared experience helps to prevent, deescalate, and minimize the severity of a crisis. Because these individuals may share common experiences, they can understand one another on a very different level

degree felony out of a crime that, committed on any other person, is a misdemeanor. This is of special concern with juveniles in treatment facilities whose behavioral health system profile includes acting out aggressively with staff or other residents when they feel psychologically threatened. When law enforcement is called the youth is often charged, removed from the treatment facility and placed in detention for the very behavioral responses that caused him or her to be placed in residential treatment in the first place. Individuals receiving health care services are thus more susceptible to habitual offender proceedings (mandatory Department of Corrections time if the State proves prior offenses), and, if not competent to stand trial, a possible commitment to the New Mexico Behavioral Health Institute (NMBHI) for a costly treatment to competence commitment of up to 9 months. The enhanced penalty for battery on a health care worker may not be necessary. If an attack on a health care worker is severe, statutes already exist to charge an individual with felony battery where appropriate. In some jurisdictions, charges such as commercial burglary (NMSA § 30-16-3), are used when a shoplifter has been instructed not to return to a store (with a no trespass order), and may result in a felony charge if that person returns and steals even an item worth one dollar. That too makes them susceptible to habitual offender proceedings and NMBHI commitment for competence.

Misdemeanor offenses can also disproportionately affect people with mental health disorders. Certain charges, such as misuse of public property pursuant to NMSA § 30-14-4 can result in a sentence of 180 days or up to 364 days for simply sleeping in a public park, or a city bus bench. Similarly, criminal trespass for sleeping in a public area, obstructing movement, panhandling, public nuisance, disorderly conduct, indecent exposure (urinating in public), also disproportionately affect mentally ill individuals.

Blowing smoke on or spitting on a teacher or health care worker is a felony, but if committed against any other person it is a misdemeanor (even a Judge).

Robert Work, Attorney
NM Public Defender's Office

The consequences of such criminal penalties can be counterproductive. When arrested, even if a person has a stable residence at the time of their arrest, their home can be lost due to long incarcerations. Social security benefits are cut off, treatment disrupted, and prolonged detention can cause an escalation of future criminal charges when the client is eventually released. Long periods of incarceration are counterproductive to actually helping people in crisis.

Many people living with mental illness experience multiple incarcerations over short periods of time. Due to this, many do not view jail as a punishment. Mental health courts can mitigate the problem of the revolving door and can function as a way to get clients into services. However, people who are so ill that they are considered legally incompetent cannot get any services since all of the mental health court programs require a degree of cooperation from the clients and the ability to plead to a charge to benefit from the program.

Task Force Members and Participants

HJM 17 Sponsor

Representative Rick Miera
District 11 (Bernalillo)

HJM 17 Steering Committee

Bette B. Betts, Behavioral Health Director
Aging & Long-Term Services Department

Michael Coop, Consultant
Coop Consulting, Inc.

Troy Fernandez, Senior Director
Behavioral Health Services Division
OptumHealth

Michael Hubert
Community Development Specialist
Office of Consumer Affairs Consultant

James W. Ogle
National Alliance on Mental Illness - NM
Co-Chair Legislative Committee

Grace Philips, Attorney
New Mexico Association of Counties

Jennifer Rabinowitz
Loss Prevention Coordinator
New Mexico Association of Counties

Daphne Rood-Hopkins, Clinical Manager
Behavioral Health Services
Human Services Department

Jeffrey Tinstman
Senior Behavioral Health Administrator
Children, Youth & Families Department

Arianna Trott, Consultant
Coop Consulting, Inc.

Christine Wendel, Chair
Behavioral Health Planning Council

Task Force Members and Participants

Anne Albrink, Esq., Consumer
National Alliance on Mental Illness

Suzy Ashcroft
Advocate LC 16

Sam Baca
NM Behavioral Health Collaborative
Local Collaborative Cross Agency Team

Joe Baca, Sheriff
Sierra County Sheriff's Office

Rebecca Ballantine, Tribal Liaison
DWI Prevention Program
Sandoval County

Chuck Benson
Lakota Traditional Counselor LC 16

Randall Berner, Clinical Director
Five Sandoval Indian Pueblos, Inc.

Steven Blue Horse
Lakota Traditional Counselor LC 16

Mark Boschelli, Administrator
Behavioral Health Clinical Services
Presbyterian Medical Services

Lupe Bryan
Five Sandoval Indian Pueblos, Inc.

Alan Martinez, Deputy Secretary
NM Department of Veterans Services

Linda Mathes-Diabo, Director
A New Day Youth and Family Services

Margaret McCowen, Director
Governmental Relations
Mesilla Valley Hospital

Rodney McNease, Director
Behavioral Services
University of New Mexico

Karen Meador, Senior Policy Director
Behavioral Health Services
Human Services Department

Carolyn Morris, PhD, Director
Native American Affairs, OptumHealth

Traci Neff, Juvenile Service Administrator
Juvenile Detention Center
San Juan County

Tomi Pino
Five Sandoval Indian Pueblos, Inc.

Jeanne Quintero
3rd Judicial District
Office of the District Attorney

Barri Roberts, Executive Director
Forensic Intervention Consortium Bernalillo County

Linda Roebuck, Director
NM Behavioral Health Collaborative

Nils Rosenbaum, MD
Crisis Intervention Team, Psychiatrist
Albuquerque Police Department

Ramon Rustin, Chief
Metropolitan Detention Center

Gabrielle Sanchez-Sandoval
Chief General Counsel
New Mexico Department of Health

Shereen Shantz
Consumer Affairs
Human Services Department

Silvia Sierra, Director
Doña Ana County Health & Human Services Department

Patrick Simpson, Deputy Director
Administrative Office of the Courts

Susan Sisneros, Probation & Parole
Children, Youth & Families Department

Alfonso Solis, Chief of Police
Roswell Police Department &
Acting Secretary of Corrections

Judge Mary L. Marlowe Sommer
First Judicial District Court

Jana A. Spalding
OptumHealth

Christopher S. Tokarski, Executive Director
Mental Health Resources, Inc.

Susie Trujillo
Gila Regional Medical Center

Shirley Villegas, System of Care Trainer
New Mexico Family Network

Marianna Vigil, Acting Program Manager
New Mexico Corrections Department

Robert Work, Attorney
Mental Health Division
Office of the Public Defender

Wanda Yazzie
Evercare, UnitedHealthcare

House Joint Memorial 17

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Requesting the interagency Behavioral Health Purchasing Collaborative and its member departments to study the needs of and available resources for people with mental health disorders in crisis situations and to develop strategies to improve services, treatment and care outside of law enforcement and detention in order to reduce the number of people with mental health disorders who are in detention facilities or require law enforcement intervention.

- Whereas, one of the greatest challenges facing law enforcement agencies and detention centers is how to respond to people who have mental health disorders; and

- Whereas, law enforcement agencies are the first-line responders to people with mental health disorders who are not receiving necessary treatment and care; and

- Whereas, current statute permits people with mental health disorders to be taken to detention facilities for protective custody regardless of whether they have committed criminal acts warranting arrest; and

- Whereas, many people with mental health disorders are held in detention facilities for misdemeanor charges due to a lack of available treatment or community support; and

- Whereas, the burden for addressing mental health issues in New Mexico communities has been left to counties where detention centers have become de facto mental health facilities; and

- Whereas, few detention centers are equipped to deal with this population; and

- Whereas, individuals with mental health disorders can be traumatized by incarceration; and

- Whereas, the current situation exposes the state and local governments to substantial liability; and

- Whereas, individual agencies cannot provide the solution to this problem because it is a systemic problem that required collaboration and development of strategies among federal, state, county, and municipal governments as well as health care providers and advocacy organizations;

Now, therefore, be it resolved by the legislature of the State of New Mexico that the interagency Behavioral Health Purchasing Collaborative, through the behavioral health planning council, be requested to convene stakeholders to develop humane and effective strategies to serve people with mental health disorders in order to reduce the number of people with mental heath disorders that require law enforcement intervention and to reduce the number of people with mental health disorders in detention centers; and